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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,578	07/09/2003	Seiji Kato	1003-1-01 PUS	1326

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EXAMINER	
PARSLEY, DAVID J	

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/616,578	KATO, SEIJI
	Examiner	Art Unit
	David J Parsley	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15 and 17-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 June 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Detailed Action

Amendment

1. This office action is in response to applicant's amendment dated 11-20-04 and this action is non-final.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 8-9, 11-15, 17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP Patent No. 10-262501 in view of U.S. Patent No. 5,894,693 to Davie.

Referring to claims 1 and 11, the Japanese patent discloses a fishing lure comprising, a lure body – at 1-4, comprising a rigid portion – at 3 and 4, the rigid portion comprising at least two separate components – see figures 1-2, and wherein the rigid portion comprises at least two separate first and second rigid components positioned at opposite ends of the elongated lure body and connected to two separate sections of an elongated elastic component – at 2, for allowing the lure body to flex, wherein the elastic component is made of a memory alloy – see the English abstract, to maintain a particular shape although flexible enough to bend in various directions –

see for example the English abstract and figures 1-2. The Japanese patent does not disclose the lure body comprises a resilient cover portion encapsulating the two separate components of the rigid portion. Davie does disclose the lure body comprises a resilient cover portion – at 40, encapsulating the two separate components of the rigid portion – see at 18 and 56 in figure 11b or 18 and 34 in figure 11a. Therefore it would have been obvious to take the device of the Japanese patent and add the resilient portion of the lure body of Davie, so as to provide a natural feel and appearance to the lure body.

Referring to claims 2 and 13, the Japanese patent as modified by Davie further discloses a fishing line attachment – at 10, attached to one of the at least two separate components for allowing a fishing line to be connected to the lure body – see for example figures 1-2 of the Japanese patent.

Referring to claims 3 and 14, the Japanese patent as modified by Davie further discloses a hook attachment component – at 12 or 15, attached to one of the at least two separate components for allowing a hook – at 14 or 17, to be connected to the lure body – see for example figures 1-2 of the Japanese patent.

Referring to claim 4, the Japanese patent as modified by Davie further discloses the lure body is an elongated body with one of each of the at least two separate components positioned at the elongated body's opposite ends – see for example figures 1-2 of the Japanese patent.

Referring to claim 5, the Japanese patent as modified by Davie further discloses the at least two separate components have a composition strength that can withstand forces associated with fishing without breaking – see for example figures 1-2 of the Japanese patent.

Referring to claim 6, the Japanese patent as modified by Davie further discloses the elastic component – at 2 is a wire – see the English abstract, having a composition strength that can withstand forces associated with fishing and repetitive bending without breaking – see for example the English abstract and figures 1-2 of the Japanese patent.

Referring to claims 8-9 and 12, the Japanese patent as modified by Davie further discloses the elastic component has a biasing property for allowing the lure body to bend approximately 30 degrees to imitate body positions of live bait when moving – see for example the English abstract and proximate 2 in figures 1-2 of the Japanese patent.

Referring to claim 15, the Japanese patent as modified by Davie further discloses the at least first and second rigid components and the elastic component have a composition strength the can withstand forces associated with fishing and repetitive bending without breaking – see for example figures 1-2 and the English abstract of the Japanese patent.

Referring to claim 17, the Japanese patent discloses a fishing lure comprising, a lure body – at 1-4, comprising a rigid portion – at 3 and 4, and wherein the rigid portion comprises at least two separate first and second rigid components positioned at opposite ends of the elongated lure body – see figures 1-2, and the resilient portion housing the at least first and second rigid portions – see for example figures 1-2, connected by an elastic component – at 2, for allowing the lure body to flex, wherein the elastic component is made of a memory alloy – see the English abstract, to maintain a particular shape although flexible enough to bend in various directions – see for example the English abstract and figures 1-2. The Japanese patent does not disclose a resilient elongated body made of a flexible plastic for fully encapsulating the first and second rigid components. Davie does disclose the a resilient body – at 40, made of a flexible plastic

portion – see for example column 4 lines 40-67, for fully encapsulating the first and second rigid components – at 18 and 56 as seen in figure 11B. Therefore it would have been obvious to take the device of the Japanese patent and add the resilient portion of the lure body of Davie, so as to provide a natural feel and appearance to the lure body.

Referring to claim 18, the Japanese patent as modified by Davie further discloses the elastic component – at 2 is a wire – see the English abstract of the Japanese patent, having a composition strength that can withstand forces associated with fishing and repetitive bending without breaking – see for example the English abstract and figures 1-2 of the Japanese patent.

Referring to claim 20, the Japanese patent as modified by Davie further discloses a hook attachment component – at 12 and 15, attached to one of the at least two rigid components for allowing a hook – at 14 or 17, to be connected to the lure body – see for example figures 1-2 of the Japanese patent.

Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as modified by Davie as applied to claims 1 or 17 above, and further in view of U.S. Patent No. 5,182,875 to Righetti.

Referring to claims 7 and 17, the Japanese patent as modified by Davie does not disclose the elastic component is blade-shaped. Righetti does disclose the elastic component – at 900, is blade-shaped – see for example figure 11. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent as modified by Davie and add the elastic component being blade-shaped of Righetti, so as to increase the flexibility of the lure so that it mimics the movements of fish.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese patent as modified by Davie as applied to claim 1 above, and further in view of U.S. Patent No. 5,203,103 to Hawley. The Japanese patent as modified by Davie does not disclose the soft portion is plastic. Hawley does disclose the soft portion – at 10, is plastic – see for example column 2 lines 20-32. Therefore it would have been obvious to one of ordinary skill in the art to take the device of the Japanese patent as modified by Davie and add the soft portion made of plastic of Hawley, so as to make the lure flexible and more lightweight.

Response to Arguments

3. Applicant's arguments with respect to claims 1-15 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP

David Parsley
Patent Examiner
Art Unit 3643

PETER M. POON
SUPERVISORY PATENT EXAMINER

12/28/04